



NEWS / LEGISLATION

FINANCIAL INSTITUTIONS COMMITTEE State Legislative Subcommittee CURRENT STATE LEGISLATION

September 9, 2002

Submitted by Bob Mulford

[ENACTED AND SIGNED](#) / [ENROLLED AND AWAITING SIGNATURE OR VETO](#) / [FAILED TO PASS](#)

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Enacted and Signed

S.B. 1254, chapter 254 (Alpert) was approved by the Governor August 24, 2002. It amends Penal Code 530.5 and 530.8 to expand "personal identifying information," for purposes of the identity theft crime, to include various identification numbers (health insurance, taxpayer ID, federal driver's license, school ID, account, PIN, password, alien registration, passport, date of birth, and information in a birth or death certificate) and biometric data such as fingerprints and iris scans. Makes it a misdemeanor for any person, with intent to defraud, to acquire, transfer, or retain possession of another's personal identifying information. Adds commercial mobile radio services to the entities that must respond to identify theft claims. Requires cooperation with law enforcement.

See also A.B. 245 and 655, both on identity theft, both passed last year.

Enrolled and Awaiting Governor's Signature or Veto

A.B. 2922 (Simitian) would add B&PC 353 and Gov. C 11019.10 would require the California Office of Privacy Protection to create a State Personal Information Inventory, to be available to the general public by March 1, 2004. Each state agency would have to provide to the Office of Privacy Protection descriptions of the general categories of records contained in its systems of records that contain personal information.

Passed the Senate 8/27/02, the Assembly 8/29/02.

A.B. 2297 (Simitian), the Online Privacy and Disclosure Act of 2002, would add B&PC 22575 et seq., effective July 1, 2003, to require an "operator" that collects personal and identifying information through the Internet about individuals located in California to conspicuously post on its web site (and comply with) a privacy policy. Would have to provide access to prior privacy policies. "Operator" would be defined as a person or entity that operates an Internet web site or that operates an online service that collects or maintains personal information from or about a California resident who visits the web side or online service, if the site or service is operated for commercial purposes (including any person or entity offering a product or service for sale through the site or service). Operators with fewer than 25 employees and who do less than 10% of their business with individuals in California would be exempt. Would supercede local regulation.

To enrollment 9/05/02.

A.B. 3029 (Corbett et al) would amend CCP 1281.9 on consumer arbitration to allow consumers to choose alternative arbitration providers and would impose extensive disclosure requirements on private arbitration companies. To enrollment 8/30/02, as last amended 8/26/02.

Note. Other arbitration bills that have been enrolled and are on the Governors desk include A.B. 2574 (to add CCP 1281.92), A.B. 2656 (to add CCP 1281.96), A.B. 2915 (to add CCP 1284.3), A.B. 3029 (to add/amend CCP 1280-1281.83, and A.B. 3030 (to add CCP 1280.1 and 1286.5).

SB 1386 (Peace) would amend Civil Code 1798.82 and 1798.84 and add Civil Code 1798.29, effective July 1, 2003, to require any state agency, or any person that conducts business in California, that owns or licenses computerized data that includes personal information, to disclose ("in the most expedient time possible and without unreasonably delay") any security breach to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Could delay notification at request of law enforcement. Would preempt local regulation.

Passed the Assembly 8/26/02, the Senate 8/30/02.

S.B. 1538 (Burton) would amend CCP 1281 and add Gov C. 12952 to prohibit mandatory arbitration of claims under the Fair Housing and Employment Act. Arbitration clauses involving FHEA claims would be void unless signed knowingly, voluntarily, and not as a condition of employment or continued employment. Any such clause signed prior to 1/01/03 would be invalid unless it is found to have been signed involuntarily.

Passed the Assembly, 8/24/02, the Senate 8/30/02.

S.B. 1614 (Speier) would amend H&S C 102230 and add H&S C 102231 and 102232 to limit the access to state-maintained birth, death, and marriage records.

Passed the Assembly 8/28/02, the Senate 8/30/02.

S.B. 1914 would add H&S C 130311.5, to require the Office of Health Insurance Portability and Accountability Act Implementation to assume statewide oversight responsibility for determining which provisions of state law on personal medical information are preempted by the federal HIPAA law (which deals with privacy of medical information).

Passed the Assembly 8/20/02, the Senate 8/29/02.

Failed to Pass

A.B. 1775 (Nation, Oropeza), introduced 1/10/02, later entitled the Financial Privacy Protection Act of 2002, would have prohibited financial disclosure of sensitive information to third parties or to affiliates, unless the consumer had opted in, etc. Last amended April 22, 2002. Held under submission in Judiciary Committee, 5/07/02.

A.B. 1805 (Kehoe) would have amended CC 1785.33 to allow lawsuits (for violating provisions re consumer credit reporting agencies) within 2 years after actual discovery of the violation (instead of 2 years after the plaintiff knew or should have known). No change to the overall limit of 7 years from the violation except where the defendant materially and willfully misrepresented information required to be disclosed. Referred to the Committees on Judiciary

and Banking & Finance, 2/04/02. Last amended 3/20/02. From committee without further action, 4/29/02.

A.B. 2256 (Dickerson) on producer's liens. Passed Assembly 5/29/02, but failed passage 8/08/02.

A.B. 2373 (Papan) would have replaced Financial Code 1913.4, 14208, 18349.4 with new Financial Code 216.3 and 216.7 on regulating banks, etc, and in particular would allow the Commissioner of Financial Institution to levy civil money penalties. Passed Assembly 5/16/02. To Senate Banking 5/23/02. Hearing postponed, 8/05/02.

S.B. 97 (Sher) would have cleaned up the Uniform Electronic Transactions Act. . Passed Assembly 1.30.02, but later withdrawn by author. Same bill number has been enrolled, but deals with an entirely different topic, support orders.

S.B. 773 (Speier), the Financial Information Privacy Act of 2002. Senate refused to concur with Assembly amendments, 8/31/02.

S.B. 1237 (Speier) would have added Commercial Code 4105.5 to prevent a bank from using mother's name as a key identifier to allow an individual to establish or access an account. For accounts established before 1/1/03, banks that use mothers' names as identifiers would have had to notify their customers that they could request other identifiers. Passed Senate 5/16/02. To Assembly Banking, but returned to chief clerk pursuant to Joint Rule 62(a), 8/12/02.

S.B. 1277 (Murray) would have amended Financial C. 867(a) to require that proceeds of cashier checks, certified checks, teller's checks, and depository checks be available for withdrawal on the second business day after deposit, even for amounts above \$5,000. Failed to pass out of Banking Committee, 5/01/02.

S.B. 1522 (Sher) would have amended various UCC provisions, chiefly those in Article 1. Passed Senate 5/16/02 as amended 5/08/02. To Assembly Judiciary 5/28/02. Hearing cancelled at request of author, 6/18/02.

S.B. 1814 (Dunn) would have amended Cartright Act to allow for antitrust liability among related organizations. Passed Senate 5/29/02 as last amended 5/08/02. To Assembly 5/29/02. Failed passage in committee, 6/25/02.

S.B. 2081 (Machado) would have amended the Money Transmitters Law, which does not apply to banks. The bill would also have required banks and credit unions to provide a consumer a written receipt (with specified information) for each consumer transaction involving less than \$2000 transmitted abroad. Wire transfers and ACH transfers would be excluded. Passed Senate 5/28/02 as last amended 5/24/02. To Assembly Banking 6/06/02. Held in committee and under submission, 8/22/02.